



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MEICOR REALTY MANAGEMENT SERVICES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

The landlord applied for an Order of Possession for unpaid rent under the Direct Request Procedure, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 18, 2014 the landlord served the tenant with the Notice of Direct Request Proceeding by posting it on the door of the rental unit. Section 90 deems a person to have received a document three days after it is posted on the door of the rental unit.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on February 15, 2011, indicating a monthly rent of \$695.00 due on the 1st day of every month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 2, 2014 with a stated effective vacancy date of February 12, 2014, for \$721.00 in unpaid rent as of February 1, 2014;
- A copy of a Proof of Service of the 10 Day Notice indicating the landlord personally served the tenant with the 10 Day Notice on February 2, 2014 which includes the tenant's signature acknowledging receipt of the 10 Day Notice;
- Copies of receipts showing the tenant paid \$260.00 on February 2, 2014 and \$486.00 on February 11, 2014 including a \$25.00 late fee and that the payment received on February 11, 2014 was accepted for use and occupancy only; and,

- A copy of the tenant's notice to end tenancy dated January 31, 2014 with an effective date of February 28, 2014.

The 10 Day Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

The landlord is seeking an Order of Possession as the tenant has paid the outstanding rent more than five days after receiving the 10 Day Notice and the landlord does not wish to reinstate the tenancy.

Analysis

I have reviewed all documentary evidence and accept that the tenant was served with a 10 Day Notice to End Tenancy as submitted by the landlord.

I accept the evidence before me that the tenant failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy would end on the effective date of the Notice. Therefore, I find the tenancy legally came to an end on February 12, 2014.

Since the landlord accepted monies "for use and occupancy only" for the month of February 2014, I find landlord has not reinstated the tenancy and the landlord is entitled to regain possession of the rental unit on February 28, 2014. However, given the date of this decision, I provide the landlord an Order of Possession effective two (2) days after service upon the tenant.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 28, 2014

Residential Tenancy Branch

